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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,901	09/17/2003	Alan Gillengerten	GDI-2001PV2	8150
33931	7590	03/09/2005	EXAMINER	
LAW OFFICE OF HARRY J. MACEY 720 BLAIR ISLAND ROAD, SUITE 100 REDWOOD CITY, CA 94063			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/713,901	Applicant(s) GILLEGERTEN, ALAN	
	Examiner Janet M. Wilkens	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-16, 20-25, 29-37, 41-44, 48-51, 55 and 56 is/are rejected.
- 7) ☒ Claim(s) 6-8, 17-19, 26-28, 38-40, 45-47 and 52-54 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/30/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 9, 10, 20-24, 29, 30, 51, 55 and 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/752,780. Both the instant and copending applications teach an audio visual system comprising: a housing, a video display and a movably mounted speaker support and speaker. In the first position, the speaker is hidden behind the front wall of the housing while in the second position, the speaker is exposed and moved outward of the front wall. The speaker box is capable of receiving another speaker box therein, being empty or being suspended by the support.

This is a provisional obviousness-type double patenting rejection.

Claims 5, 11-16, 25, 41-44 and 48-50 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/752,780 in view of Backhaus. Both

the instant and copending applications teach an audio visual system comprising: a housing, a video display and a movably mounted speaker support and speaker. In the first position, the speaker is hidden behind the front wall of the housing while in the second position, the speaker is exposed and moved outward of the front wall. The speaker box is capable of receiving another speaker box therein, being empty or being suspended by the (one of more as desired) support. For claims 5 and 25, the copending application fails to specifically teach a drive coupled to the speaker support. For claim 11, the copending application fails to specifically teach an extendable support. For claims 41 and 50, the copending application fails to teach a system with two or three units. Backhaus teaches a system (Fig. 1) comprising: a housing (10) with three integral sections; in the two outer sections are movably mounted and extendable speaker supports (31,37) and speakers (11). The supports are movable via drive means (see Fig. 2 for example). First, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of the copending application by incorporating a drive means with the speaker support, to provide a mechanical means to move the support/speaker from one position to another. Second, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of the copending application by incorporating an extendable speaker support therein, to provide for greater lateral movement of the support/speaker. Third, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of the copending application in view of Backhaus by using three units such as is taught by Backhaus for aesthetic purposes, organizational

purposes, etc. and making these units individual units, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177,179. The separate units allowing for easy replacement of sections of the system and for easy transportation thereof. Note: the speaker supports would be installed in the system after the units are arranged adjacent each other. For claims 48 and/or 49, the copending application in view of Backhaus fails to teach a single support which suspends the support therefrom. It would have been obvious to one of ordinary skill in the art to modify the support assembly of Backhaus by using only one extendable member, i.e. the bottom member with the drive means, and place it at the top of the supports, to simplify the support assembly, and/or depending on personal preferences, economic concerns, etc.

This is a provisional obviousness-type double patenting rejection.

Claims 31-37 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/752,780 in view of Backhaus and Joseph. Both the instant and copending applications teach an audio visual system comprising: a housing, a video display and a movably mounted speaker support and speaker. In the first position, the speaker is hidden behind the front wall of the housing while in the second position, the speaker is exposed and moved outward of the front wall. The speaker box is capable of receiving another speaker box therein, being empty or being suspended by the (one of more as desired) support. For claim 31, the copending application fails to specifically teach an extendable support. Backhaus teaches a system (Fig. 1)

comprising: a housing (10) with three integral sections; in the two outer sections are movably mounted and extendable speaker supports (31,37) and speakers (11). The supports are movable via drive means (see Fig. 2 for example). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of the copending application by incorporating an extendable speaker support therein, to provide for greater lateral movement of the support/speaker. Also for claim 31, the copending application fails to specifically teach a speaker box having another speaker box therein. Joseph teaches a system (Fig. 1) including a speaker box (210,200) within a speaker box (145,140). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of the copending application by incorporating a speaker box system as disclosed in Joseph therein, to allow easy speaker removal for repair, etc. For claims 31 and/or 33, the copending application in view of Backhaus and Joseph fails to teach a single support which suspends the support therefrom. It would have been obvious to one of ordinary skill in the art to modify the support assembly of Backhaus and Joseph by using only one extendable member, i.e. the bottom member with the drive means, and place it at the top of the supports, to simplify the support assembly, and/or depending on personal preferences, economic concerns, etc.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 9, 51, 55 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, Sr. Johnson teaches an audio visual system (Fig. 1) comprising: a housing (12) with a front wall (16 and fronts of 24), a movably mounted video display (TV shown in Fig. 2) and movably mounted speaker supports (24) and speakers (38). In the first position, the video display and speakers are hidden behind the front wall while in the second position(s) the display and speakers are exposed and moved outwardly from/of the front wall. Furthermore, the speaker box of Johnson would be capable of being empty by taking its components out.

Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Reime. Reime teaches an audio visual system (Fig. 1) comprising: a housing (12) with a front wall (44), a video display (TV shown in Fig. 1) and movably mounted speaker supports (14) and suspended speakers (24). In the first position, the video display and speakers are hidden behind the front wall while in the second position(s) the display and speakers are exposed.

Claims 1-4, 9, 51, 55 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim. Kim teaches an audio visual system (Fig. 2) comprising: a housing (100) with a front wall (110), a movably mounted flat screen video display (302) and

movably mounted speaker supports (410) and speakers (400). In the first position, the speakers are hidden behind the front wall while in the second position the speakers are exposed and moved outwardly from/of the front wall. Furthermore, the speaker box of Kim would be capable of being empty by taking its components out.

Claim 51 is rejected under 35 U.S.C. 102(b) as being anticipated by Backhaus. Backhaus teaches a system (Fig. 1) comprising: a housing (10) with a front wall (fronts of 26) and movably mounted and extendable speaker supports (31,37) and speakers (11). In the first position, the speakers are hidden behind the front wall while in the second position the speakers are exposed and moved outwardly from the front wall. The supports are movable via drive means (see Fig. 2 for example). Furthermore, it would be possible to take the components inside the speakers out leaving an empty box.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Sr. As stated above, Johnson teaches the limitations of claim 1, including a video display. For claims 3 and 4, Johnson fails to teach that the display is a flat panel TV, video display or monitor or a projection screen. The examiner takes Official notice

that flat panel TVs, video displays and monitors and projection screens are well known in the art. Therefore, it would have been obvious to use an alternate type of video display in the cabinet of Johnson (supporting it on the shelf accordingly), since these members are functionally equivalent and it would appear that any one of these members would work equally well in the cabinet of Johnson. Furthermore, it would depend on the desired need of the person using the cabinet, e.g. personnel preferences, economic considerations, etc. Furthermore, it would be possible to take the components inside the speakers out leaving an empty box.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reime. As stated above, Reime teaches the limitations of claim 11, including a video display. For claims 14 and 15, Reime fails to teach that the display is a flat panel TV, video display or monitor or a projection screen. The examiner takes Official notice that flat panel TVs, video displays and monitors and projection screens are well known in the art. Therefore, it would have been obvious to use an alternate type of video display in the cabinet of Reime (supporting it on the shelf accordingly), since these members are functionally equivalent and it would appear that any one of these members would work equally well in the cabinet of Reime. Furthermore, it would depend on the desired need of the person using the cabinet, e.g. personnel preferences, economic considerations, etc. Furthermore, it would be possible to take the components inside the speakers out leaving an empty box.

Claims 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Backhaus. As stated above, Backhaus teaches the limitations of claim 51,. For

claims 55 and 56, Backhaus fails to teach a single support which suspends the support therefrom. It would have been obvious to one of ordinary skill in the art to modify the support assembly of Backhaus by using only one extendable member, i.e. the bottom member with the drive means, and place it at the top of the supports, to simplify the support assembly, and/or depending on personal preferences, economic concerns, etc.

Claims 1-5, 9-16, 41-44, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Backhaus in view of Johnson, Sr. Backhaus teaches a system (Fig. 1) comprising: a housing (10) with a front wall (fronts of 26) and movably mounted and extendable speaker supports (31,37) and speakers (11). In the first position, the speakers are hidden behind the front wall while in the second position the speakers are exposed and moved outwardly from the front wall. The supports are movable via drive means (see Fig. 2 for example). Furthermore, it would be possible to take the components inside the speakers out leaving an empty box. For claims 1-5, 9-16, 41-44 and 48-50, Backhaus fails to teach a video display inside the housing. Johnson teaches an audio visual system (Fig. 1) with a housing (12) having a visual system (TV on shelf). It would have been obvious to one of ordinary skill in the art at the time of the time to modify the system of Backhaus by adding a television such as is taught by Johnson, inside the housing (on one of the shelves 19), to provide a visual as well as an audio system.

For claims 3, 4, 14, 15, 23, 24, 43, and 44, Backhaus in view of Johnson fails to teach that the display is a flat panel TV, video display or monitor or a projection screen. The examiner takes Official notice that flat panel TVs, video displays and monitors and

projection screens are well known in the art. Therefore, it would have been obvious to use an alternate type of video display in the cabinet of Backhaus in view of Johnson, since these members are functionally equivalent and it would appear that any one of these members would work equally well in the cabinet of Backhaus in view of Johnson. Furthermore, it would depend on the desired need of the person using the cabinet, e.g. personnel preferences, economic considerations, etc.

For claims 41 and 50, Backhaus in view of Johnson fails to teach three individual units forming the housing of the system. It would have been obvious to modify the system of the Backhaus in view of Johnson by using three individual units, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman* 168 USPQ 177,179. The separate units allowing for easy replacement of sections of the system and for easy transportation thereof. Note: the speaker supports would be installed in the system after the units are arranged adjacent each other.

For claims 48 and 49, Backhaus in view of Johnson fails to teach a single support which suspends the support therefrom. It would have been obvious to one of ordinary skill in the art to modify the support assembly of Backhaus by using only one extendable member, i.e. the bottom member with the drive means, and place it at the top of the supports, to simplify the support assembly, and/or depending on personal preferences, economic concerns, etc.

Claims 20-24, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Sr in view of Joseph. Johnson teaches an audio visual

system (Fig. 1) comprising: a housing (12) with a front wall (16 and fronts of 24), a movably mounted video display (TV shown in Fig. 2) and movably mounted speaker supports (24) and speakers (38). In the first position, the video display and speakers are hidden behind the front wall while in the second position(s) the display and speakers are exposed and moved outwardly from/of the front wall. Furthermore, the speaker box of Johnson would be capable of being empty by taking its components out. Johnson fails to specifically teach a speaker box having another speaker box therein. Joseph teaches a system (Fig. 1) including a speaker box (210,200) within a speaker box (145,140). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Johnson by incorporating a speaker box system as disclosed in Joseph therein, to allow easy speaker removal for repair, etc.

For claims 23 and 24, Johnson in view of Joseph fails to teach that the display is a flat panel TV, video display or monitor or a projection screen. The examiner takes Official notice that flat panel TVs, video displays and monitors and projection screens are well known in the art. Therefore, it would have been obvious to use an alternate type of video display in the cabinet of Johnson (supporting it on the shelf accordingly), since these members are functionally equivalent and it would appear that any one of these members would work equally well in the cabinet of Johnson. Furthermore, it would depend on the desired need of the person using the cabinet, e.g. personnel preferences, economic considerations, etc.

Claims 20-24 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim in view of Joseph. Kim teaches an audio visual system (Fig. 2) comprising: a

housing (100) with a front wall (110), a movably mounted flat screen video display (302) and movably mounted speaker supports (410) and speakers (400). In the first position, the speakers are hidden behind the front wall while in the second position the speakers are exposed and moved outwardly from/of the front wall. Furthermore, the speaker box of Kim would be capable of being empty. Kim fails to specifically teach a speaker box having another speaker box therein. Joseph teaches a system (Fig. 1) including a speaker box (210,200) within a speaker box (145,140). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Kim by incorporating a speaker box system as disclosed in Joseph therein, to allow easy speaker removal for repair, etc.

For claims 23 and 24, Johnson in view of Joseph fails to teach that the display is a flat panel TV, video display or monitor or a projection screen. The examiner takes Official notice that flat panel TVs, video displays and monitors and projection screens are well known in the art. Therefore, it would have been obvious to use an alternate type of video display in the cabinet of Johnson (supporting it on the shelf accordingly), since these members are functionally equivalent and it would appear that any one of these members would work equally well in the cabinet of Johnson. Furthermore, it would depend on the desired need of the person using the cabinet, e.g. personnel preferences, economic considerations, etc.

Claims 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Backhaus in view of Johnson, Sr and Joseph. Backhaus teaches a system (Fig. 1) comprising: a housing (10) with a front wall (fronts of 26) and movably mounted and

extendable speaker supports (31,37) and speakers (11). In the first position, the speakers are hidden behind the front wall while in the second position the speakers are exposed and moved outwardly from the front wall. The supports are movable via drive means (see Fig. 2 for example). Furthermore, it would be possible to take the components inside the speakers out leaving an empty box. For claims 31-37, Backhaus fails to teach a video display inside the housing. Johnson teaches an audio visual system (Fig. 1) with a housing (12) having a visual system (TV on shelf). It would have been obvious to one of ordinary skill in the art at the time of the time to modify the system of Backhaus by adding a television such as is taught by Johnson, inside the housing (on one of the shelves 19), to provide a visual as well as an audio system.

Also for claim 31, Backhaus in view of Johnson fails to specifically teach a speaker box having another speaker box therein. Joseph teaches a system (Fig. 1) including a speaker box (210,200) within a speaker box (145,140). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Backhaus in view of Johnson by incorporating a speaker box system as disclosed in Joseph therein, to allow easy speaker removal for repair, etc.

Also for claims 31 and 33, Backhaus in view of Johnson and Joseph fails to teach a single support which suspends the support therefrom. It would have been obvious to one of ordinary skill in the art to modify the support assembly of Backhaus by using only one extendable member, i.e. the bottom member with the drive means, and place it at the top of the supports, to simplify the support assembly, and/or depending on personal preferences, economic concerns, etc.

For claims 35 and 36, Backhaus in view of Johnson and Joseph fails to teach that the display is a flat panel TV, video display or monitor or a projection screen. The examiner takes Official notice that flat panel TVs, video displays and monitors and projection screens are well known in the art. Therefore, it would have been obvious to use an alternate type of video display in the cabinet of Backhaus in view of Johnson, since these members are functionally equivalent and it would appear that any one of these members would work equally well in the cabinet of Backhaus in view of Johnson. Furthermore, it would depend on the desired need of the person using the cabinet, e.g. personnel preferences, economic considerations, etc.

Allowable Subject Matter

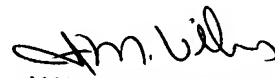
Claims 6-8, 17-19, 26-28, 38-40, 45-47 and 52-54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. (Beginning April 7, 2005: (571) 272-6869.) The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
March 4, 2005


JANET M. WILKENS
PRIMARY EXAMINER
